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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----x

4 UNITED STATES OF AMERICA,

5 v.

20 Cr. 76 (NRB)

6 ZACHARY CLARK,  
7 a/k/a "Abu Talha,"  
8 a/k/a "Omar Kabir,"  
9 a/k/a "Omar Shishani"  
10 Defendant.

Arraignment

11 New York, N.Y.  
12 February 3, 2020  
13 3:15 p.m.

14 Before:

15 HON. NAOMI REICE BUCHWALD,

16 District Judge

17 APPEARANCES

18 GEOFFREY S. BERMAN  
19 United States Attorney for the  
20 Southern District of New York  
BY: GILLIAN GROSSMAN  
MATTHEW HELLMAN  
Assistant United States Attorneys

FEDERAL DEFENDERS OF NEW YORK  
Attorney for Defendant  
BY: JONATHAN MARVINNY

K23LCLAA

1 2/3/2020

2 20Cr. 76

3 United States vs. Zachary Clark

4 arraignment and initial conference

5 for the government: Gillian Grossman and Matthew Hellman.

6 for the defendant Jonathan Marvinny.

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8 THE COURT: Good afternoon. Everyone may be seated.

9 Okay.

10 (Case called)

11 MS. GROSSMAN: Yes, your Honor.

12 Gillian Grossman and Matthew Hellman, for the  
13 government.14 THE COURT: All right. Is this Mr. Clark's first  
15 appearance, subsequent to this indictment?

16 MS. GROSSMAN: Yes, your Honor.

17 THE COURT: Okay. So, Mr. Marvinny, have you received  
18 a copy of the indictment in this case?

19 MR. MARVINNY: Yes, your Honor.

20 THE COURT: And have you had a chance to review it  
21 with Mr. Clark?

22 MR. MARVINNY: Yes, your Honor.

23 We would waive its public reading.

24 THE COURT: Mr. Clark, how do you plead, guilty or not  
25 guilty?

K23LCLAA

1                   THE DEFENDANT: Not guilty.

2                   THE COURT: Have the parties had a chance to discuss  
3 next steps in terms of discovery or perhaps other things?

4                   MS. GROSSMAN: Yes, your Honor.

5                   The government is ready to make its first discovery  
6 production today. And we expect the production of discovery to  
7 be substantially complete by early March.

8                   The defendant and defense counsel have signed a  
9 stipulated protective order, which, if the Court would like, we  
10 can hand up for the Court's consideration. We've asked defense  
11 counsel to provide one terabyte hard drive for the government's  
12 second discovery production, given the volume of materials.

13                  THE COURT: Okay.

14                  Do you want to hand that up?

15                  MS. GROSSMAN: Yes. Thank you.

16                  THE COURT: I've signed it.

17                  MS. GROSSMAN: Thank you, your Honor.

18                  THE COURT: So, Mr. Marvinny?

19                  MR. MARVINNY: I would respectfully request coming  
20 back to this Court approximately 45 days after discovery is  
21 complete. We're looking at about a terabyte of discovery, so I  
22 think that seems like an appropriate time frame, your Honor.

23                  THE COURT: Well, on the assumption, as the government  
24 said, that discovery would be completed by early March.

25                  MR. MARVINNY: Mid April?

K23LCLAA

1           THE COURT: Okay. How about April 21st, at 2:30?

2           MR. MARVINNY: Thank you.

3           THE COURT: Is that good for the government?

4           MS. GROSSMAN: Yes, your Honor. Thank you.

5           Mr. Marvinny, any objection to excluding the speedy  
6 trial?

7           MR. MARVINNY: No.

8           THE COURT: I find a continuance until April 21st  
9 serves the ends of justice and outweighs the best interests of  
10 the public and the defendant in a speedy trial in that it will  
11 permit time for the government to make discovery and for the  
12 defendant to consider that discovery.

13           Is there anything else at this time?

14           MS. GROSSMAN: Yes, your Honor.

15           Just one matter. We wanted to notify the Court that  
16 we anticipate filing a motion pursuant to the Classified  
17 Information Procedure's Act in this case, otherwise known as  
18 CEPA. That motion is typically filed ex parte, which is how we  
19 intend to file it here. And we'd like to have a Section (2)  
20 conference with the Court in order to describe what the Section  
21 (4) motion under CEPA will entail. And we're asking to have  
22 that conference ex parte as well, so that we can discuss the  
23 content of the motion with the Court and describe the  
24 classified material at issue.

25           The government has conferred with the classified

K23LCLAA

1 information security officers assigned to this district, who  
2 would attend such a conference. They're available any Friday  
3 in February, if that works for the Court, or whatever date, of  
4 course.

5 THE COURT: That is, for multiple reasons, not  
6 convenient. Are there other dates that they would like --  
7 non-Fridays that they would like to consider and skipping  
8 President's week?

9 MS. GROSSMAN: They didn't provide us with any. So I  
10 would suggest scheduling the conference to the Court's  
11 convenience. And we'll make sure that an officer makes himself  
12 available.

13 THE COURT: Is there some particular reason that they  
14 pick Fridays?

15 MS. GROSSMAN: Yes, your Honor.

16 The officers assigned to this are district are  
17 currently engaged in -- assigned to attend a trial every day  
18 occurring in this district that deals with a large quantity of  
19 classified information.

20 THE COURT: Okay. I think the officer dropped by  
21 chambers earlier today.

22 How long is that trial expected to continue?

23 MS. GROSSMAN: I expect at least a month, your Honor.

24 THE COURT: Okay. And, again, that judge does not sit  
25 on Fridays. Okay. What I would suggest -- and maybe you can

K23LCLAA

1 get back to me -- is maybe we could do something at the end of  
2 the day after that trial comes to an end.

3 MS. GROSSMAN: Yes, your Honor.

4 THE COURT: That seems like a possibility.

5 MS. GROSSMAN: Absolutely. And I'll suggest that to  
6 the --

7 THE COURT: Okay. Why don't we do that.

8 MS. GROSSMAN: Okay. Thank you.

9 THE COURT: Okay. All right. So you'll get back to  
10 me?

11 MS. GROSSMAN: Yes, your Honor, we will.

12 THE COURT: All right. Anything further?

13 MR. MARVINNY: No, your Honor.

14 THE COURT: Okay. Very good. Thank you.

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